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7 Attorneys for Defendant/Counter-Plaintiff,  
8 KEATING DENTAL ARTS, INC.

9  
10 IN THE UNITED STATES DISTRICT COURT  
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
12 SOUTHERN DIVISION

13 JAMES R. GLIDEWELL DENTAL  
14 CERAMICS, INC. dba GLIDEWELL  
LABORATORIES,

15 Plaintiff,

16 v.

17 KEATING DENTAL ARTS, INC.

18 Defendant.

19 AND RELATED COUNTERCLAIMS.  
20  
21

Civil Action No.  
SACV11-01309-DOC(ANx)

**SECOND DECLARATION OF  
RUSTIN K. MANGUM IN  
SUPPORT OF KEATING  
DENTAL ARTS, INC.'S  
REPLY TO THE MOTIONS  
FOR SUMMARY JUDGMENT**

Date: December 17, 2012

Time: 8:30 a.m.

Location: Courtroom 9D

Honorable David O. Carter

1 I, Rustin Mangum, hereby declare as follows:

2 I am an associate at Knobbe Martens Olson and Bear who represents Keating  
3 Dental Arts, Inc. ("Keating") in this matter. I have been working on this matter  
4 and have personal knowledge of the matters set forth herein. If called upon to  
5 testify, I could and would testify as follows:

6 **A. Attached Exhibits**

7 1. Attached as **Exhibit 160** is a true and correct copy of excerpts of the  
8 deposition transcript of Diane Mallos Donich, Chief Financial Officer at  
9 Keating, providing testimony as a fact witness.

10 2. Attached as **Exhibit 161** are true and correct copies of pages from the  
11 Trademark Manual of Examining Procedure, 8th Edition, Issued October 2011.

12 **B. Internet Webpage Printouts Previously Submitted**

13 3. Beginning at the end of July 2012 and going through October 2012, I  
14 personally performed a number of Internet searches to find public uses of the  
15 terms "bruxer," "bruxzir," "crown," "zirconia," and other terms and  
16 combinations of terms relevant to the present case. When I viewed a page with  
17 relevant information, I personally printed the page.

18 4. The printed pages from my search were sent to Dr. David Eggleston, an  
19 expert retained by Keating in this case, to assist him in his review of publicly  
20 available information and aid in his own searches of publicly available  
21 information. True and correct copies of some of the web page printouts which I  
22 made were attached to Dr. Eggleston's declaration dated November 19, 2012.  
23 (Doc. #93.)

24 5. Some of the webpage printouts I made were used during depositions of  
25 various Glidewell witnesses and given a deposition exhibit number. True and  
26 correct copies of some of these web page printouts which I made were attached  
27 to the Jankowski Declaration dated November 19, 2012. (Doc. #91.)

28 ///

1       6. The documents I personally printed from the Internet include:

2       Documents Attached to Eggleston Declaration (Doc. #93):

- 3       • On July 30, 2012, I personally viewed and downloaded this pdf document  
4       from Glidewell's website at <http://www.glidewelldental.com>. **Exhibit 79**  
5       is a true and correct copy of the printout of this pdf document from the  
6       website on that date. This copy has not been altered except that  
7       production numbers KDA-002183 through KDA-002184 were added to  
8       this document during the course of this litigation for identification  
9       purposes.
- 10      • On August 15, 2012, I personally viewed the webpage found at  
11      <http://www.bruxzir.com/features-bruxzir-zirconia-dental-crown/> and  
12      printed a copy of that webpage. **Exhibit 80** is a true and correct copy of  
13      the printout of this website on that date. This copy has not been altered  
14      except that production numbers KDA-002198 through KDA-002199 were  
15      added to this document during the course of this litigation for  
16      identification purposes.
- 17      • On August 16, 2012, I personally viewed the webpage found at  
18      [http://www.glidewelldental.com/dentist/services/all-ceramics-](http://www.glidewelldental.com/dentist/services/all-ceramics-bruxzir.aspx)  
19      [bruxzir.aspx](http://www.glidewelldental.com/dentist/services/all-ceramics-bruxzir.aspx) and printed a copy of that webpage. **Exhibit 81** is a true and  
20      correct copy of the printout of this website on that date. This copy has  
21      not been altered except that production number KDA-002197 was added  
22      to this document during the course of this litigation for identification  
23      purposes.
- 24      • On July 30, 2012, I personally viewed the webpage found at  
25      <http://www.glidewelldental.com/bruxzir-zirconia-crowns/features/> and  
26      printed a copy of that webpage. **Exhibit 82** is a true and correct copy of  
27      the printout of this website on that date. This copy has not been altered  
28      except that production numbers KDA-002298 through KDA-002299 were

1 added to this document during the course of this litigation for  
2 identification purposes.

- 3 • On July 30, 2012, I personally viewed the webpage found at  
4 [http://www.glidewelldental.com/dentists/services/all-ceramics-bruxzir-](http://www.glidewelldental.com/dentists/services/all-ceramics-bruxzir-tech.aspx)  
5 [tech.aspx](http://www.glidewelldental.com/dentists/services/all-ceramics-bruxzir-tech.aspx) and printed a copy of that webpage. **Exhibit 83** is a true and  
6 correct copy of the printout of this website on that date. This copy has  
7 not been altered except that production number KDA-002300 was added  
8 to this document during the course of this litigation for identification  
9 purposes.
- 10 • On July 30, 2012, I personally viewed the webpage found at  
11 <http://www.glidewelldental.com/lab/services/bruxzir.aspx> and printed a  
12 copy of that webpage. **Exhibit 84** is a true and correct copy of the  
13 printout of this website on that date. This copy has not been altered  
14 except that production number KDA-002302 was added to this document  
15 during the course of this litigation for identification purposes.
- 16 • On August 15, 2012, I personally viewed the webpage found at  
17 <http://www.axisdentalmilling.com/bruxzir.html> and printed a copy of that  
18 webpage. **Exhibit 85** is a true and correct copy of the printout of this  
19 website on that date. This copy has not been altered except that  
20 production numbers KDA-002174 through KDA-002175 were added to  
21 this document during the course of this litigation for identification  
22 purposes.
- 23 • On August 30, 2012, I personally viewed the webpage found at  
24 <http://www.crowndentalstudio.com/BruxZir.html> and printed a copy of  
25 that webpage. **Exhibit 86** is a true and correct copy of the printout of this  
26 website on that date. This copy has not been altered except that  
27 production numbers KDA-002242 through KDA-002244 were added to  
28

1 this document during the course of this litigation for identification  
2 purposes.

- 3 • On July 31, 2012, I personally viewed the webpage found at  
4 <http://www.kellerlab.com/193/products/bruxzir.php> and printed a copy of  
5 that webpage. **Exhibit 87** is a true and correct copy of the printout of this  
6 website on that date. This copy has not been altered except that  
7 production numbers KDA-002345 through KDA-002346 were added to  
8 this document during the course of this litigation for identification  
9 purposes.
- 10 • On September 6, 2012, I personally viewed the webpage found at  
11 [http://www.dentalartlab.com/page.php?page\\_id=47](http://www.dentalartlab.com/page.php?page_id=47) and printed a copy of  
12 that webpage. **Exhibit 88** is a true and correct copy of the printout of this  
13 website on that date. This copy has not been altered except that  
14 production numbers KDA-002245 through KDA-002246 were added to  
15 this document during the course of this litigation for identification  
16 purposes.
- 17 • On August 30, 2012, I personally viewed the webpage found at  
18 <http://www.dentistrytoday.com/top100-2011-g1> and printed a copy of that  
19 webpage. **Exhibit 89** is a true and correct copy of the printout of this  
20 website on that date. This copy has not been altered except that  
21 production numbers KDA-002286 through KDA-002288 were added to  
22 this document during the course of this litigation for identification  
23 purposes.
- 24 • On August 15, 2012, I personally viewed the webpage found at  
25 <http://www.prweb.com/releases/glidewell-dental-lab/bruxzir-dental->  
26 [zirconia/prweb3622494.htm](http://www.prweb.com/releases/glidewell-dental-lab/bruxzir-dental-zirconia/prweb3622494.htm) and printed a copy of that webpage. **Exhibit**  
27 **90** is a true and correct copy of the printout of this website on that date.  
28 This copy has not been altered except that production numbers KDA-

1 002295 through KDA-002296 were added to this document during the  
2 course of this litigation for identification purposes.

- 3 • On September 6, 2012, I personally viewed the webpage found at  
4 <http://www.lvddslab.com/bruxzir.aspx> and printed a copy of that  
5 webpage. **Exhibit 91** is a true and correct copy of the printout of this  
6 website on that date. This copy has not been altered except that  
7 production number KDA-002347 was added to this document during the  
8 course of this litigation for identification purposes.
- 9 • On August 30, 2012, I personally viewed the webpage found at  
10 <http://www.pcdl-usa.com/products16-79/BruxZir> and printed a copy of  
11 that webpage. **Exhibit 92** is a true and correct copy of the printout of this  
12 website on that date. This copy has not been altered except that  
13 production number KDA-002360 was added to this document during the  
14 course of this litigation for identification purposes.
- 15 • On September 6, 2012, I personally viewed the webpage found at  
16 <http://www.expertecdental.com/fullz.asp> and printed a copy of that  
17 webpage. **Exhibit 93** is a true and correct copy of the printout of this  
18 website on that date. This copy has not been altered except that  
19 production number KDA-002348 was added to this document during the  
20 course of this litigation for identification purposes.
- 21 • On September 6, 2012, I personally viewed the webpage found at  
22 [http://www.sudentallabs.com/suntech\\_full\\_zirconia.aspx](http://www.sudentallabs.com/suntech_full_zirconia.aspx) and printed a  
23 copy of that webpage. **Exhibit 94** is a true and correct copy of the  
24 printout of this website on that date. This copy has not been altered  
25 except that production numbers KDA-002381 through KDA-002382 were  
26 added to this document during the course of this litigation for  
27 identification purposes.

28

- 1       • On September 6, 2012, I personally viewed the webpage found at  
2       [http://www.thompsonsuburban.com/bruxzir\\_solid\\_zirconia.html](http://www.thompsonsuburban.com/bruxzir_solid_zirconia.html) and  
3       printed a copy of that webpage. **Exhibit 95** is a true and correct copy of  
4       the printout of this website on that date. This copy has not been altered  
5       except that production number KDA-002383 was added to this document  
6       during the course of this litigation for identification purposes.
- 7       • On September 6, 2012, I personally viewed the webpage found at  
8       <http://www.drakelab.com/products/Zircast.php> and printed a copy of that  
9       webpage. **Exhibit 96** is a true and correct copy of the printout of this  
10      website on that date. This copy has not been altered except that  
11      production numbers KDA-002448 through KDA-002449 were added to  
12      this document during the course of this litigation for identification  
13      purposes.
- 14      • On September 24, 2012, I personally viewed the webpage found at  
15      <http://www.artistedentistry.com/Cosmetic-Dentistry.html> and printed a  
16      copy of that webpage. **Exhibit 98** is a true and correct copy of the  
17      printout of this website on that date. This copy has not been altered  
18      except that production numbers KDA-002738 through KDA-002748 were  
19      added to this document during the course of this litigation for  
20      identification purposes.
- 21      • On September 6, 2012, I personally viewed the webpage found at  
22      <http://www.assuredentallabinc.com/prep.html> and printed a copy of that  
23      webpage. **Exhibit 107** is a true and correct copy of the printout of this  
24      website on that date. This copy has not been altered except that  
25      production numbers KDA-002172 through KDA-002173 were added to  
26      this document during the course of this litigation for identification  
27      purposes.

28



- 1       • On September 6, 2012, I personally viewed the webpage found at  
2       <http://www.infinitylaboratory.com/5073/5094.html> and printed a copy of  
3       that webpage. **Exhibit 108** is a true and correct copy of the printout of  
4       this website on that date. This copy has not been altered except that  
5       production number KDA-002341 was added to this document during the  
6       course of this litigation for identification purposes.
- 7       • On September 6, 2012, I personally viewed the webpage found at  
8       [http://mascoladentallab.com/wp-](http://mascoladentallab.com/wp-content/themes/mascola/pdf/GreenRX_ME_Fixed_distributed.pdf)  
9       [content/themes/mascola/pdf/GreenRX\\_ME\\_Fixed\\_distributed.pdf](http://mascoladentallab.com/wp-content/themes/mascola/pdf/GreenRX_ME_Fixed_distributed.pdf) and  
10       printed a copy of that webpage. **Exhibit 110** is a true and correct copy of  
11       the printout of this website on that date. This copy has not been altered  
12       except that production number KDA-002444 was added to this document  
13       during the course of this litigation for identification purposes.
- 14       • On August 9, 2012, I personally viewed the webpage found at  
15       <http://www.yorkdentallab.com/fixed/bruxzer.html> and printed a copy of  
16       that webpage. **Exhibit 111** is a true and correct copy of the printout of  
17       this website on that date. This copy has not been altered except that  
18       production number KDA-002445 was added to this document during the  
19       course of this litigation for identification purposes.
- 20       • On September 6, 2012, I personally viewed the webpage found at  
21       [http://www.continentaldental.com/home-continental-dental-lab/2-](http://www.continentaldental.com/home-continental-dental-lab/2-porcelain-to-non-precious/62-zirconia-bruxer-crown)  
22       [porcelain-to-non-precious/62-zirconia-bruxer-crown](http://www.continentaldental.com/home-continental-dental-lab/2-porcelain-to-non-precious/62-zirconia-bruxer-crown) and printed a copy  
23       of that webpage. **Exhibit 112** is a true and correct copy of the printout of  
24       this website on that date. This copy has not been altered except that  
25       production number KDA-002241 was added to this document during the  
26       course of this litigation for identification purposes.

27     ///

28     ///



- 1 • On September 6, 2012, I personally viewed the webpage found at  
2 <http://www.summersdentallab.com/bruxthetix.html> and printed a copy of  
3 that webpage. **Exhibit 113** is a true and correct copy of the printout of  
4 this website on that date. This copy has not been altered except that  
5 production numbers KDA-002450 through KDA-002451 were added to  
6 this document during the course of this litigation for identification  
7 purposes.
- 8 • On September 6, 2012, I personally viewed the webpage found at  
9 [http://www.hellotrader.com/china-dental-outsourcing-](http://www.hellotrader.com/china-dental-outsourcing-incorporated/bruxers-all-zirconia-dental-product.html)  
10 [incorporated/bruxers-all-zirconia-dental-product.html](http://www.hellotrader.com/china-dental-outsourcing-incorporated/bruxers-all-zirconia-dental-product.html) and printed a copy  
11 of that webpage. **Exhibit 115** is a true and correct copy of the printout of  
12 this website on that date. This copy has not been altered except that  
13 production numbers KDA-002318 through KDA-002320 were added to  
14 this document during the course of this litigation for identification  
15 purposes.
- 16 • On September 6, 2012, I personally viewed the webpage found at  
17 [http://www.mouvement.tv/story.php?title=bruxer-crown-%7C-solid-](http://www.mouvement.tv/story.php?title=bruxer-crown-%7C-solid-zirconia-crown)  
18 [zirconia-crown](http://www.mouvement.tv/story.php?title=bruxer-crown-%7C-solid-zirconia-crown) and printed a copy of that webpage. **Exhibit 116** is a true  
19 and correct copy of the printout of this website on that date. This copy  
20 has not been altered except that production number KDA-002349 was  
21 added to this document during the course of this litigation for  
22 identification purposes.
- 23 • On September 27, 2012, I personally viewed the webpage found at  
24 <http://www.biznet-tenn.com/firms/6111792/> and printed a copy of that  
25 webpage. **Exhibit 117** is a true and correct copy of the printout of this  
26 website on that date. This copy has not been altered except that  
27 production numbers KDA-002751 through KDA-002752 were added to  
28

1 this document during the course of this litigation for identification  
2 purposes.

- 3 • On September 26, 2012, I personally viewed the webpage found at  
4 [http://www.dentalimplant.informe.com/forum/announcement-f5/what-is-](http://www.dentalimplant.informe.com/forum/announcement-f5/what-is-bruxer-crown-t10.html)  
5 [bruxer-crown-t10.html](http://www.dentalimplant.informe.com/forum/announcement-f5/what-is-bruxer-crown-t10.html) and printed a copy of that webpage. **Exhibit 118**  
6 is a true and correct copy of the printout of this website on that date. This  
7 copy has not been altered except that production numbers KDA-002759  
8 through KDA-002760 were added to this document during the course of  
9 this litigation for identification purposes.

- 10 • On September 26, 2012, I personally viewed the webpage found at  
11 [http://www.cosmeticdentistryofsa.com/dental-implants/san-antonio-](http://www.cosmeticdentistryofsa.com/dental-implants/san-antonio-restorative-dentistry/dental-crowns/)  
12 [restorative-dentistry/dental-crowns/](http://www.cosmeticdentistryofsa.com/dental-implants/san-antonio-restorative-dentistry/dental-crowns/) and printed a copy of that webpage.  
13 **Exhibit 119** is a true and correct copy of the printout of this website on  
14 that date. This copy has not been altered except that production numbers  
15 KDA-002761 through KDA-002764 were added to this document during  
16 the course of this litigation for identification purposes.

- 17 • On September 26, 2012, I personally viewed the webpage found at  
18 <http://twitter.com/PittmanLab/status/9266696359514112> and printed a  
19 copy of that webpage. **Exhibit 120** is a true and correct copy of the  
20 printout of this website on that date. This copy has not been altered  
21 except that production number KDA-002804 was added to this document  
22 during the course of this litigation for identification purposes.

23 Documents Attached to Jankowski Declaration (Doc. #91):

- 24 • On September 6, 2012, I personally viewed the webpage found at  
25 [http://www.dentalartlab.com/page.php?page\\_id=47](http://www.dentalartlab.com/page.php?page_id=47) and printed a copy of  
26 that webpage. **Exhibit 35** is a true and correct copy of the printout of this  
27 website on that date. This copy has not been altered except that  
28 production numbers KDA-002245 through KDA-002246 and a sticker

1 designating this document as Deposition Exhibit 20 were added to this  
2 document during the course of this litigation for identification purposes.

3 • On September 6, 2012, I personally viewed the webpage found at  
4 <http://www.artistedentistry.com/blog/2011/08/21/BruxZir-Crowns.aspx>  
5 and printed a copy of that webpage. **Exhibit 36** is a true and correct copy  
6 of the printout of this website on that date. This copy has not been altered  
7 except that production numbers KDA-002170 through KDA-002171 and  
8 a sticker designating this document as Deposition Exhibit 21 were added  
9 to this document during the course of this litigation for identification  
10 purposes.

11 • On August 9, 2012, I personally viewed the webpage found at  
12 <http://www.barthlab.com/dental-lab-products/z-brux-crown/> and printed a  
13 copy of that webpage. **Exhibit 37** is a true and correct copy of the  
14 printout of this website on that date. This copy has not been altered  
15 except that production numbers KDA-002446 through KDA-002447 and  
16 a sticker designating this document as Deposition Exhibit 28 were added  
17 to this document during the course of this litigation for identification  
18 purposes.

19 • On September 6, 2012, I personally viewed the webpage found at  
20 <http://www.showcasedental.com/about/events.html> and printed a copy of  
21 that webpage. **Exhibit 38** is a true and correct copy of the printout of this  
22 website on that date. This copy has not been altered except that  
23 production number KDA-002361 and a sticker designating this document  
24 as Deposition Exhibit 31 were added to this document during the course  
25 of this litigation for identification purposes.

26 • On September 6, 2012, I personally viewed the webpage found at  
27 <http://www.chinadentaloutsourcing.com/p-ceramic-bruxer.html> and  
28 printed a copy of that webpage. **Exhibit 39** is a true and correct copy of

1 the printout of this website on that date. This copy has not been altered  
2 except that production numbers KDA-002237 through KDA-002240 and  
3 a sticker designating this document as Deposition Exhibit 32 were added  
4 to this document during the course of this litigation for identification  
5 purposes.

- 6 • On September 6, 2012, I personally viewed the webpage found at  
7 <http://www.dentalproductshopper.com/blog/solid-zirconia-crowns> and  
8 printed a copy of that webpage. **Exhibit 40** is a true and correct copy of  
9 the printout of this website on that date. This copy has not been altered  
10 except that production numbers KDA-002247 through KDA-002248 and  
11 a sticker designating this document as Deposition Exhibit 34 were added  
12 to this document during the course of this litigation for identification  
13 purposes.

- 14 • On September 27, 2012, I personally viewed the webpage found at  
15 [http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfMAUDE/detail.cfm?](http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfMAUDE/detail.cfm?mdrfoi__id=2424285)  
16 [mdrfoi\\_\\_id=2424285](http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfMAUDE/detail.cfm?mdrfoi__id=2424285) and printed a copy of that webpage. **Exhibit 41** is a  
17 true and correct copy of the printout of this website on that date. This  
18 copy has not been altered except that production numbers KDA-002770  
19 through KDA-002772 and a sticker designating this document as  
20 Deposition Exhibit 45 were added to this document during the course of  
21 this litigation for identification purposes.

- 22 • On September 27, 2012, I personally viewed dental prescription form  
23 found at  
24 <http://www.trachseldentalstudio.com/resc/CrownBridgeRx2012.pdf> and  
25 printed a copy of that webpage. **Exhibit 42** is a true and correct copy of  
26 the printout of this dental prescription form. This copy has not been  
27 altered except that production numbers KDA-002832 through KDA-  
28 002833 and a sticker designating this document as Deposition Exhibit 46

1        were added to this document during the course of this litigation for  
2        identification purposes.

- 3        • On September 27, 2012, I personally viewed dental prescription form  
4        found at <http://www.danidental.com/forms/LabSlip.pdf> and printed a  
5        copy of that webpage. **Exhibit 43** is a true and correct copy of the  
6        printout of this dental prescription form. This copy has not been altered  
7        except that production number KDA-002758 and a sticker designating  
8        this document as Deposition Exhibit 47 were added to this document  
9        during the course of this litigation for identification purposes.

10    **C.    Production of Prescription Order Forms Received by Keating**

11        7. Keating has received and produced in this case a number of prescription  
12        order forms for a KDZ Bruxer crown on which the dentist ordering the crown  
13        wrote "Bruxzir," "Bruxir," "Brux-zir" or other similar spelling. These forms  
14        were provided in four separate productions as they became available through  
15        discovery. I personally reviewed these documents and found there to be some  
16        documents which were duplicative of each other (*e.g.*, production numbers  
17        KDA-003505 and KDA-003509 are duplicates as are KDA-002019 and KDA-  
18        002008). I also found there to be quite a few dentists who submitted more than  
19        one of the forms (*e.g.*, Dr. Belton, Dr. Richardson, and Dr. Sweet each  
20        submitted three different forms). Additionally, some of the forms produced did  
21        not make reference to "BruxZir" or any similar spelling (*e.g.*, KDA-003310,  
22        3314, 3318), and the writing on at least one of the forms cannot be read (KDA-  
23        002027). After taking into account these details, there were a total of 83

24        ///

25        ///

26        ///

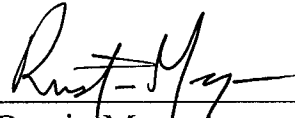
27        ///

28        ///

1 different forms produced that reference "bruxzir" or some similar spelling.  
2 These 83 forms came from 57 different dentists.

3  
4 I declare under penalty of perjury under the laws of the United States of  
5 America that the foregoing is true and correct.

6 Executed December 3, 2012, in Irvine, California.

7  
8   
9 Rustin Mangum